

**INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF LINCOLN, NEBRASKA AND LANCASTER COUNTY, NEBRASKA**

I. INTRODUCTION

This Agreement is between the City of Lincoln, Nebraska (CITY), on behalf of the Lincoln-Lancaster County Health Department, and the County of Lancaster, Nebraska (COUNTY), with a place of business at 575 South 10th Street, Lincoln, Nebraska, for Assistance with Pandemic Flu Preparedness and Response and continuity of operations planning.

The parties are authorized by the statutes of the State of Nebraska, including the Interlocal Cooperation Act, *Neb. Rev. Stat.* §13-801, et. seq., as amended, to enter into cooperative agreement for the mutual benefit of the parties and to provide services in a manner that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Each party shall remain separate entities with separate rights and authorities. Each party retains its own administrator and no separate board shall be created to fulfill the obligations of the Agreement.

II. PURPOSE

The County and City enter into this Agreement to clarify the parties' respective obligations and responsibilities for Assistance with Pandemic Flu Preparedness and Response and continuity of operations planning.

III. SERVICES

County duties and responsibilities:

- A. The County will designate the Deputy Lancaster County Emergency Manager to assist the City with the following:
1. Updating the pandemic flu plan for the Lincoln-Lancaster County Health Department as required to meet relevant grant deliverables by November 30, 2011;
 2. Collaborating with the Nebraska Department of Health and Human Services and local public health and emergency response agencies to accomplish the delivery and redistribution of Strategic National Stockpile (SNS) pharmaceuticals and supplies;
 3. Training any volunteers with the Southeast Nebraska Medical Response Corps (MRC) Coordinator about the process and how to accept and work with the Strategic National Stockpile (SNS) supplies;
 4. Coordinating a full scale Strategic National Stockpile (SNS) exercise during the week of September 12, 2011 to include (a) a "hotwash" session after the exercise to identify strengths and weaknesses of the event (b) an after action report, and (c) documentation of the achievement of grant deliverables related to the exercise.
 5. Compiling the information necessary to complete an update of the Lincoln-Lancaster County Health Department's Continuity of Operations Plan (COOP).

City duties and responsibilities:

1. Provide a office workspace, including telephone service, to the Deputy County Emergency Manager while working onsite;
2. Provide necessary resources for the exercises to be planned and coordinated by the Deputy County Emergency Manager pursuant to performance of this Agreement;
3. Pay to the County the sum of Ten Thousand Dollars (\$10,000.00) for the services of the Deputy Lancaster County Emergency Manager from July 1, 2011 until December 31, 2011.

IV. TERM

The term of this Agreement shall be from July 1, 2011 and shall continue until completion of all the obligations of this Agreement, but in no event longer than December 31, 2011. Upon expiration of the term prior to completion, City shall pay the County for any services completed up to the date of expiration but not to exceed the maximum amount allowed by this Agreement.

V. COMPENSATION

In consideration of the services to be provided by the County, the City shall pay the County \$10,000 payable at the end of the Term.

VI. TERMINATION FOR BREACH

Either party has the right to terminate this Agreement if the other party fails to perform as required in this Agreement. Termination rights under this section may be exercised only after the non-breaching party notifies the breaching party of the failure to perform in writing upon giving the other party thirty (30) days written notice. Upon termination, the City shall pay the County for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

VII. TERMINATION FOR CONVENIENCE

Either party has the right to terminate this Agreement for any reason for its own convenience upon thirty (30) days written notice of the termination. Upon termination, the City shall pay the County for any approved and documented service completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

VIII. TERMINATION FOR LACK OF FUNDING

The City may terminate this Agreement in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the City. In the event of unavailability of funds to pay any amount due under this Agreement, the City shall immediately notify the County and this Agreement shall terminate without penalty or expense to the City. Upon termination, the City

shall pay the County for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

IX. DUTIES GENERALLY

The County agrees as follows:

- A. To timely and professionally complete the services as described above, and to furnish their labor and pay all their own costs, including any taxes, required to complete their services.
- B. To furnish everything reasonably necessary to complete the services unless specifically provided otherwise in this Agreement.
- C. To apply for and obtain any and all necessary permits, certifications, licenses, variances, and approvals required by any applicable law or regulations that relate to the services.
- D. To conduct all activities related to the services in a lawful manner.
- E. Provide and perform all necessary labor in a professional and workmanlike manner and in accordance with the provisions of this Agreement.

VI. INDEPENDENT CONTRACTOR

It is the express intent of the parties that this Agreement shall not create an employer-employee relationship. Employees of the City shall not be deemed to be employees of the County and employees of the County shall not be deemed to be employees of the City. The City and the County shall be responsible to their respective employees for all salary and benefits. Neither the City's employees nor the County's employees shall be entitled to any salary or wages from the other party or to any benefits made to their employees, including, but not limited to, overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Each party shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

VII. INSURANCE

- A. The County shall maintain General Liability Insurance at its own expense during the life of this Agreement, naming and protecting Lancaster County, Nebraska and the City of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations by the County and County's employees, or those directly or indirectly employed by the county. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:
 - 1. All Acts or Omissions - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 - 2. Bodily Injury/Property Damage - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 - 3. Personal Injury Damage - \$1,000,000 each Occurrence; and

4. Contractual Liability - \$1,000,000 each Occurrence; and
 5. Products Liability and Completed Operations - \$1,000,000 each Occurrence; and
 6. Medical Expenses (any one person) - \$10,000.
- B. The following shall be provided and attached to this Agreement by the County:
1. A Certificate of Insurance for its General Liability Insurance. The City of Lincoln shall be specifically named as an additional insured on the General Liability Insurance. The County may present evidence of equivalent self-insurance in place of a certificate of insurance for General Liability Insurance. The City shall be treated as an additional insured as if the County possessed General Liability Insurance.
 2. Proof of Workers' Compensation Insurance, where appropriate.
- C. The County is required to provide the City with thirty (30) days notice of cancellation, non-renewal or any material reduction of insurance as required by this Agreement. If the County obtains General Liability Insurance during the term of this Agreement, it shall add the City as an additional insured and provide a copy of the Certificate of Insurance naming the City as an additional insured.

VIII. INDEMNIFICATION

To the fullest extent permitted by law, both Parties agree to indemnify, defend and hold harmless each other, its officers, agents and employees from and against claims, damages, losses and expenses, including but not limited to court-ordered attorney's fees, arising out of or resulting from performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the intentional or negligent act or omission of itself, its officers, employees, or anyone for whose acts any of them may be liable. This section will not require either Party to indemnify or hold harmless the other Party for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the said Party. Neither Party waives its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Agreement.

IX. AUDIT PROVISION

The County shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law.

X. FAIR EMPLOYMENT

The County shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or

marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08, and *Neb. Rev. Stat.* § 48-1122, as amended.

XI. FAIR LABOR STANDARDS

The County shall maintain Fair Labor Standards in the performance of this Agreement, as required by Chapter 73, Nebraska Revised Statutes, as amended.

XII. NEBRASKA LAW

This Agreement shall be governed and interpreted by the Laws of the State of Nebraska without reference to the principles of conflicts of law.

XIII. INTEGRATION, AMENDMENTS, ASSIGNMENT

This Agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Agreement. This Agreement may be amended only by written agreement of both parties. This Agreement may not be assigned without the prior written consent of the other party.

XIV. SEVERABILITY AND SAVINGS CLAUSE

Each section and each subdivision of a section of this Agreement is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the acceptance of this Agreement and invalidity of any section or subdivision of a section of this Agreement shall not invalidate any other section or subdivision of a section thereof.

XV. ELIGIBILITY TO WORK

In accordance with Neb. Rev. Stat. 4-108 through 4-114, the County agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The County shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. The County shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

XVI. OWNERSHIP RIGHTS

The County transfers all rights, including those of a property or copyright nature in any works or materials produced under the terms of this Agreement to the City. The City agrees that the County retains no interest or other rights in such works or materials under the copyright protections of 17 U.S.C. Section 106 or any other law.

The City has unrestricted rights of ownership of such works or materials and may freely copy, reproduce, broadcast, or otherwise use such works or materials as the City deems appropriate. The City shall also retain all such rights for any derivative works based on such works or materials. This section survives any termination of this Agreement.

EXECUTED this ____ day of _____, 2011 by the City of Lincoln, Nebraska.

ATTEST:

City Clerk

Chris Beutler, Mayor of Lincoln

EXECUTED this _____ day of _____, 2011 by Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF LANCASTER
COUNTY, NEBRASKA

By: _____

APPROVED AS TO FORM
this ____ day of _____, 2011.

Deputy County Attorney
For JOE KELLY, County Attorney